

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,  
INDIANA, WILL HOLD A REGULAR COUNCIL MEETING IN THE THIRD  
FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON  
THURSDAY, DECEMBER 20, 2007 AT 7:30 P.M.**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 7:30 p.m. The meeting opened with the Lords Prayer and the Pledge of Allegiance.

**MEMBERS PRESENT:** Council Members Mr. Coffey, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Blevins, Mr. Messer, Mr. Zurschmiede and President Larry Kochert. Mr. Schmidt was not present.

**OTHERS:** Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

**ALSO:** Board of Works member Matt Denison, John Rosenbarger, Scott Wood and David Hall

**APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:**

**Meeting minutes for the Public Hearing of December 3, 2007**

**Mr. Crump moved to approve the public hearing minutes from December 3<sup>rd</sup>, Mr. Price second, all voted in favor. Mr. Coffey abstained.**

**Mr. Coffey moved to approve the regular meeting minutes from December 3<sup>rd</sup>, Mr. Zurschmiede second, all voted in favor.**

**APPROVAL OF CF-1 FORMS:**

**COMMUNICATIONS – PUBLIC:**

**Barb Anderson**, Haven House Director thanked the council for entertaining a resolution to give monies to Haven House. She stated that they are currently at full capacity and that since 1985 they have housed hundreds of homeless in New Albany. She explained that they are constantly struggling to keep their financial difficulties in check but are unable to do so without the help and support of the community.

**Donnie Blevins** asked if they housed children.

**Ms. Anderson** stated that they currently have 14 children.

**Mr. Coffey** stated that she should also mention that the federal government has cut money to these types of charities.

**Ms. Anderson** stated that in Indiana there are no state dollars for the homeless and every year for the past 8 years there have been cuts in the federal money coming in for this program.

**Bob Lane**, New Albany Housing Authority Director, addressed the council regarding G-07-18 and stated that he has provided them with information regarding the housing authority and that if they have any questions he is here to answer them along with his staff.

**Carol Calloway**, 1425 Slate Run Road, thanked the council for considering the resolution for the Haven House. She stated that as a military wife she has lived in several states and as an individual who has volunteered for the homeless, Southern Indiana has the least amount of services of any of the states she has lived in for the homeless and the elderly. She stated that it is obvious to her that these funds are needed now.

**Jeff Roudenbush** thanked Mr. Kochert and Mr. Schmidt for their long service to the City. He also thanked Mayor Garner for his four years of service. He stated that they

have not always seen eye to eye but he always believed that he had the best interest of the City in mind as he did his job.

**Carl Maylsz**, 1239 Beechwood, spoke on behalf of Mayor Elect England regarding R-07-43, a resolution to endorse bonds for Redevelopment. He absolutely endorses this project, but he would like to have some direct contact with the Redevelopment Commission. He also has serious concerns regarding G-07-17. He stated that for the record he does not believe that the current ordinance is properly constituted according to the State Statute.

**Pat McLaughlin**, thanked Mr. Kochert, Mr. Schmidt, Mr. Blevins and Mrs. Crump for their years of service. He voiced his concerns with the bill to reconstitute the Sewer Board and stated that they needed to have more information about this before making a decision.

**Mr. Coffey** stated that the ordinance that they have before them was written by the state and did come from the Attorney Generals office and the Sewer Board attorney stated that he did feel comfortable with that and that he could fight it in court. He stated that if they take the time to look at the particular statute it is in laymen's terms to where you don't have to be an attorney to understand it and it was approved by the state legislature.

#### **COMMUNICATIONS – CITY OFFICIALS:**

**Beverly Crump** stated that tonight is a bitter sweet experience. She stated that she has enjoyed it but she has learned more than she wanted to know at times but it has been a real challenge and she would like to welcome the new council members and hopes that they have a less difficult four years then they have had.

**John Rosenbarger** stated that he is here tonight to answer any questions that they may have on the two Planning ordinances and that Tom Rivera was with them tonight to address any questions about the bond issue as well as City Attorney Shane Gibson. He explained that there were some questions about the engineering for the project but that has not been procured yet and won't be until the beginning of next year.

**Mr. Messer** asked about this being brought up at the last minute and wanted to know why it was left to this late date.

**Mr. Rosenbarger** explained that they are doing it the first minute that they can get to it. He stated that they had a public hearing scheduled December 11 but were unable to proceed without a quorum. At which time they continued the public hearing until December 18 at which time there was a quorum but there were no public comments. They have been working on this for months and it was done as soon as they could get to it to prove to the companies that they are moving forward with serious commitments.

**Mr. Messer** stated that he would like to clarify if this is just to set up the bond issue part of it until they can get the ball rolling and get the paperwork started.

**Mr. Rosenbarger** stated that at this time they have not procured an engineering firm for this project and there will not be a meeting before the end of the year.

**Mr. Coffey** stated that they met on this issue three years ago but nothing came of it.

**Mr. Kochert** explained that he believes that it would be in the best interest of the citizens and the City to pass this tonight

**There was a lengthy discussion regarding the issues that have hindered this project.**

**Mrs. Crump** stated that she is uncomfortable passing something that is last minute knowing that she is not going to be on the council next year and wanted to know if there was a problem with waiting till the first council meeting of January and letting the new Mayor and Council decide this.

**Mayor Garner** stated there is nothing to keep them from doing this but he did notify them last meeting that this was coming up and it is something his administration has worked on for several years and they aren't going to be giving any contracts for this property in the next ten days.

**Carl Maylsz** stated that Mayor England understands that this would send a positive message if it was done as soon as possible and he would like to have some input but is aware of what is going on.

**Mayor Garner** stated that this resolution has nothing to do with Mayor Elect England's ability to influence through the development commission what is going to happen.

**Mr. Coffey** stated that they have met on this for years and the bottom line is they did leave this until the eleventh hour.

**Mayor Garner** stated that they could say the entire agenda is eleventh hour but it really isn't it is just the last meeting of the year.

**Mr. Kochert** stated that he has been working on this for seven years and would really like to see this go through.

**Mr. Coffey** stated that he and several associates are having a Christmas Party for individuals that are spending Christmas alone at the Redman's club and they give out toys and food and would like to welcome anyone that would like to come.

**Mr. Price** thanked everyone for the past four years. He stated that they have had some difficult times but he believes that is why they have nine council members and they did the best job they could and he applauds the positive things they have done.

**Mr. Blevins** thanked everyone and stated that it was a pleasure to work with everyone.

#### **COMMUNICATIONS – MAYOR:**

**Mayor Garner** presented a letter to the council from the EPA giving the sewer system a clean bill of health. He discussed R-07-44 regarding One Southern Indiana and stated that he has worked with them for the past year to develop an equation that is quantifiable and stated that there is money in the EDIT fund to appropriate this. He commented on R-07-45 and stated that in the last year Haven House has provided over \$120,000 in services through their homeless shelter. He stated that if they want to reconstitute under Chapter 25 for a new sewer ordinance based on his readings the document should be more like 25 pages not just one in details and it will cost the citizens of New Albany \$1M the next time the rate is changed because everyone will have to have the same rate under the sewer district.

**Mr. Coffey** stated that they have to raise the sewer rates and the bottom line is that the sewer utility has been running the cities services for over 30 years and the people out in this area could come back and say we want that area back and it would be a heck of a lawsuit. He stated that they are going to have to annex these areas so the 150% is a moot point because they are already in the process to annex these in and if they do their job right and don't give out no-bid contracts then the bond issues will stay the same and the rate issues will stay the same and it won't make a bit of difference because we will all be paying the same.

**There was a lengthy discussion about whether or not the current board uses Chapter 23 or 25 of State Statute and how current council members got on it.**

**Mr. Kochert** stated that this is the first time in 17 years that the EPA has talked to them without saying we are going to fine you and they need to think about that.

**Mr. Gahan** stated that he believes redoing this sewer board is one of the most important issue and they need to get the politicians off the board and make the board accountable for their actions because as it stands they are not accountable for anything.

**Mayor Garner** state that they do not know for sure if these areas will be annexed or what circumstances could arise surrounding this issue and if they do then it will cost the citizens money. He stated that he also put in their packets information regarding House Bill 10-01 that has been introduced for next session that will deplete \$640,000 out of the City's general fund in 2010 if it passes in its current form.

**COMMITTEE REPORTS:**

**APPOINTMENTS:**

**INTRODUCTION OF ORDINANCES AND RESOLUTIONS:                      READING**

R-07-43	Resolution Approving and Supporting a Resolution Of the Redevelopment Commission of New Albany, Indiana	Messer
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**Mr. Messer moved for the reading of R-07-43, Mr. Price second, all voted in favor.**

R-07-44	Resolution To Provide 2007 Funding to One Southern Indiana for Economic Development Services	Gahan
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**Mr. Gahan tabled this until the second meeting of January.**

R-07-45	Resolution to Provide Funding to Haven House for the Provisions of Homeless Services	Zurschmiede
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**Mr. Zurschmiede** stated that he received several upsetting phone calls regarding this ordinance and he would like to table this until he has time to look into the matter further.

G-07-19	Common Council of the City of New Albany an Ordinance Dividing the City into Six Districts Pursuant to the Provisions of I.C. 36-4-6-3	Price 1
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**Mr. Price moved for the first reading of G-07-19, Mr. Schmidt second, all voted in favor except for Mr. Zurschmiede and Mr. Messer who voted no.**

**Mr. Coffey** asked the attorney to explain what has happened with this in court.

**Mr. Ulrich** explained that the Consent Decree seems to have fallen by the way-side and he never heard anything from the judge that it had not been approved although it has not yet been signed. He stated that the previous ordinance was defective because it was signed by the Mayor on Election Day which was not appropriate.

**Mr. Messer** asked if passing this lawsuit would release them from the liability lawsuit.

**Mr. Ulrich** said no.

**Mr. Messer** asked if there is a pressing time limit to pass this ordinance

**Mr. Ulrich** stated that the judge gave the council 60 days to meet their obligation under the Consent Decree.

**Mr. Messer** stated that even if they pass this tonight the next council will have to deal with this no matter what they do.

**Mr. Ulrich** stated that yes unless they waive the rules and have all three readings tonight the next council will have to deal with it unless they have a special meeting called by the Mayor.

**There was a lengthy discussion about what would happen if they passed this tonight as opposed to waiting for the next council to deal with it.**

**Mr. Blevins** asked if there is anything wrong with the ordinance that is before them tonight

**Mr. Ulrich** stated that the ordinance itself is not unconstitutional but that the judge was unsure that he would rule favorably on it.

**Mr. Schmidt made a motion to suspend the rules to have all three readings. Said motion did not receive a second.**

**Mr. Zurschmiede** stated that he would not vote to have all three readings tonight.

**Mr. Blevins** asked if there was anyway that they could go back and vote on R-07-44 to vote for money for Haven House. He stated that it bothers him that when the animal shelter came asking for money they council gave them money, when different departments ask for money they give it to them, and here they have individuals in need and they are putting them off. He state that he thinks it is wrong and if they had to spend some time in a shelter they would be more understanding.

**Mr. Kochert** stated that they would discuss this at the end of the meeting.

A-07-32	An Ordinance Amending Ordinance No. A-07-44	Crump 2&3
	For the Police Department Only for the Year 2007	

**Mrs. Crump moved for the second and third reading of A-07-32, Mr. Coffey second, all voted in favor except for Mr. Kochert and Mr. Schmidt who abstained. . Bill A-07-32 became ordinance A-07-55.**

**Mr. Gahan** stated that at this time he would like to change the order of the agenda because there is a chance that they will change the composition of the Sewer Board and if they do that it will impact the Mayor and Clerk's salary so he wanted to ask to hold off on A-07-33 until they vote on the composition of the sewer utility.

G-07-17	Ordinance to Replace New Albany Code of	Coffey 3
	Ordinance Section 51.115 (D) (E) (F): Sewer	
	Board Establishment.	

**Mr. Coffey moved for the third reading of G-07-17, Mr. Gahan second, the ordinance failed with all voting no with the exception of Mr. Coffey, Mr. Blevins, and Mr. Gahan who voted yes.**

**Mr. Messer** stated that he is not against changing the board his only concern right now is the timing. He stated that they are currently looking into annexing but if they do annex they might not have the man power on the police department to support that group out there and give them the protection that they need and he doesn't believe the fire department does either.

**Mr. Coffey** stated that he doesn't understand why the same people that voted for money to do a study for annexation are the ones concerned about whether or not there is money to support an annexation. Mr. Coffey stated that the council will still have control over whether fees are raised or bonds are passed not the board. He stated that this statute also stipulates that the Sewer board has to bring an itemized budget into the council to be approved just like every other department which will do away with no-bid contracts. He stated that this put the board back under executive control.

**Mr. Messer** stated that they reason they have council members on the board was to make sure the council has control and according to Mr. Coffey the politicians are going to be the ones running the show and if they are doing so well why change it. If they need to take it out of the politician's hands then to make it a three man board run by politicians would defeat the purpose.

**Mr. Zurschmiede** asked who wrote this ordinance

**Mr. Coffey** stated that he took sections out of the State Statute and the first part he wrote himself.

**There was a lengthy discussion regarding the Chapter 25 and problems that they have with the current Sewer Board verses going to a sewer district.**

**Mr. Zurschmiede** stated that he is just frustrated with the whole thing because it is the only board that he has been involved in that is actually moving forward. He stated that he understands the issues with council members being on the board and if they want to remove them he would have no problem with that but no one can stand up and say that this passing this ordinance tonight won't cost them a lot of money through rate increases and more.

**Mr. Gahan** stated that if they don't have any problems with the council being on the board they can take care of that situation by resigning.

**Mr. Ulrich** stated that he doesn't think they will need an extensive ordinance to adopt a sanitation board under this code because you simply adopt the code per se. The code says that the sanitation department is run by a board that is comprised of 3-5 members and they set the fees but they can't be raised without the council.

A-07-33            An Ordinance Setting Salaries for the Year 2008            Schmidt 2&3  
For Elected Officials

**Mr. Zurschmiede** made a motion to increase the salary of the Mayor and he asked Kay Garry to come forward to give them information.

**Mrs. Garry** presented information regarding the IACT survey for salaries of elected officials which gives an average of the Mayor's salaries of second class cities and their population. She stated that she spoke with Charlie Pride and was told that they can amend the amounts on this ordinance but it has to be done before the end of the year.

**Mr. Price** discussed why he felt that the elected officials should not take a raise.

**Mr. Coffey** stated that if they want to get qualified people to run for these positions that they have to make the salaries competitive with the private sector.

**Mr. Kochert** stated that if they wanted to make what they make in the private sector they should work in the private sector.

**Mrs. Crump** stated that they needed to increase the City Clerk's salary. That they had not given the Clerk a raise in 3 years and that she is the lowest paid clerk in the State of Indiana.

**Mr. Zurschmiede made a motion to increase the mayors salary to \$75,000 which is to be taken from the general fund and the City Clerk's to \$42,500 which is to be taken out of the general fund, all voted in favor except Mr. Kochert who voted no.**

**Mr. Schmidt moved for the second and third reading of A-07-33 as amended, Mr. Zurschmiede second, all voted in favor. Bill A-07-33 became ordinance A-07-56.**

G-07-18            Ordinance to Amend the make up of the New Albany            Coffey 2&3  
Housing Authority

**Mr. Coffey pulled this ordinance**

Z-07-21            Ordinance Amending the Code of Ordinances of New            Zurschmiede2&3  
Albany, Indiana, Title XV, Chapter 156 (Docket P-  
18-07: Thomas J. Sprigler)

**Mr. Zurschmiede moved for the second and third reading of A-07-21, Mr. Messer second, all voted in favor. Bill Z-07-21 became ordinance Z-07-57.**

Z-07-22            Ordinance Amending the Code of Ordinances of New    Zurschmiede2&3  
Albany, Indiana, Title XV, Chapter 156 (Docket P-  
17-07: Gary McCartin)

**Mr. Zurschmiede stated that he would table it for this meeting but that he would like for it to be on the next agenda.**

**MISCELLANEOUS COMMUNICATIONS:** (public comments on non-agenda items)

**Mr. Blevins** again asked if they could vote on the Haven House resolution this evening.

**Mr. Zurschmiede** stated that he needed to investigate the information that he received regarding the mismanagement of the funds for Haven House and he would not take this off of the table tonight.

**Mr. Blevins** voiced his displeasure with Mr. Zurschmiede decision and left the meeting.

**Mayor Garner** stated that he will call a special meeting for Thursday, December 27, at 4:00 p.m. to vote on G-07-10 and there will be an amendment for salaries, and he would also like to have R-07-44 for Haven House on the agenda.

**Mr. Gahan** asked if he would also put on his suggested Sewer Board amendment.

**Mayor Garner** stated that he would put that on there if Mr. Coffey agreed with it being on there.

**Mr. Coffey** agreed.

**Mayor Garner** gave his State of the City address which is on file with the City Clerk's office.

**Mr. Schmidt** thanked the council for their hard work.

**ADJOURN:**

**There being no further business to be heard, the meeting adjourned at 9:43 p.m.**

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Larry Kochert, President  
Common Council, City of New Albany

ATTEST: \_\_\_\_\_  
Marcey J. Wisman, City Clerk